



# Social Security Contributions and Benefits (Northern Ireland) Act 1992

## 1992 CHAPTER 7

### PART V

#### BENEFIT FOR INDUSTRIAL INJURIES

##### *General provisions*

#### **94 Right to industrial injuries benefit**

- (1) Industrial injuries benefit shall be payable where an employed earner suffers personal injury caused after 4th July 1948 by accident arising out of and in the course of his employment, being employed earner's employment.
- (2) Industrial injuries benefit consists of the following benefits—
  - (a) disablement benefit payable in accordance with sections 103 to 105 below, paragraphs 2 and 3 of Schedule 7 to this Act and Parts II and III of that Schedule;
  - (b) reduced earnings allowance payable in accordance with Part IV of that Schedule;
  - (c) retirement allowance payable in accordance with Part V of that Schedule; and
  - (d) industrial death benefit, payable in accordance with Part VI of that Schedule.
- (3) For the purposes of industrial injuries benefit an accident arising in the course of an employed earner's employment shall be taken, in the absence of evidence to the contrary, also to have arisen out of that employment.
- (4) Regulations may make provision as to the day which, in the case of night workers and other special cases, is to be treated for the purposes of industrial injuries benefit as the day of the accident.
- (5) Subject to sections 117 and 119 below, industrial injuries benefit shall not be payable in respect of an accident happening while the earner is outside Northern Ireland.

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*Status: This is the original version (as it was originally enacted).*

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- (6) In the following provisions of this Part of this Act “work” in the contexts “incapable of work” and “incapacity for work” means work which the person in question can be reasonably expected to do.
- (7) Subsection (5) above shall cease to have effect on such day as the Head of the Department may by order appoint.

## **95 Relevant employments**

- (1) In section 94 above, this section and sections 98 to 109 below “employed earner’s employment” shall be taken to include any employment by virtue of which a person is, or is treated by regulations as being for the purposes of industrial injuries benefit, an employed earner.
- (2) Regulations may provide that any prescribed employment shall not be treated for the purposes of industrial injuries benefit as employed earner’s employment notwithstanding that it would be so treated apart from the regulations.
- (3) For the purposes of the provisions of this Act mentioned in subsection (1) above an employment shall be an employed earner’s employment in relation to an accident if (and only if) it is, or is treated by regulations as being, such an employment when the accident occurs.
- (4) Any reference in the industrial injuries and diseases provisions to an “employed earner” or “employed earner’s employment” is to be construed, in relation to any time before 6th April 1975, as a reference respectively to an “insured person” or “insurable employment” within the meaning of the provisions relating to industrial injuries and diseases which were in force at that time.
- (5) In subsection (4) above “the industrial injuries and diseases provisions” means—
- (a) this section and sections 96 to 110 below;
  - (b) any other provisions of this Act so far as they relate to those sections; and
  - (c) any provisions of the Administration Act so far as they so relate.

## **96 Persons treated as employers for certain purposes**

In relation to—

- (a) a person who is an employed earner for the purposes of this Part of this Act otherwise than by virtue of a contract of service or apprenticeship; or
- (b) any other employed earner—
  - (i) who is employed for the purpose of any game or recreation and is engaged or paid through a club; or
  - (ii) in whose case it appears to the Department there is special difficulty in the application of all or any of the provisions of this Part of this Act relating to employers,

regulations may provide for a prescribed person to be treated in respect of industrial injuries benefit and its administration as the earner’s employer.

## **97 Accidents in course of illegal employments**

- (1) Subsection (2) below has effect in any case where—

- (a) a claim is made for industrial injuries benefit in respect of an accident, or of a prescribed disease or injury; or
  - (b) an application is made under section 42 of the Administration Act for a declaration that an accident was an industrial accident, or for a corresponding declaration as to a prescribed disease or injury.
- (2) The Department may direct that the relevant employment shall, in relation to that accident, disease or injury, be treated as having been employed earner's employment notwithstanding that by reason of a contravention of, or non-compliance with, some provision contained in or having effect under an enactment passed for the protection of employed persons or any class of employed persons, either—
- (a) the contract purporting to govern the employment was void; or
  - (b) the employed person was not lawfully employed in the relevant employment at the time when, or in the place where, the accident happened or the disease or injury was contracted or received.
- (3) In subsection (2) above “relevant employment” means—
- (a) in relation to an accident, the employment out of and in the course of which the accident arises; and
  - (b) in relation to a prescribed disease or injury, the employment to the nature of which the disease or injury is due.

#### **98 Earner acting in breach of regulations, etc**

An accident shall be taken to arise out of and in the course of an employed earner's employment, notwithstanding that he is at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment, or of any orders given by or on behalf of his employer, or that he is acting without instructions from his employer, if—

- (a) the accident would have been taken so to have arisen had the act not been done in contravention of any such regulations or orders, or without such instructions, as the case may be; and
- (b) the act is done for the purposes of and in connection with the employer's trade or business.

#### **99 Earner travelling in employer's transport**

- (1) An accident happening while an employed earner is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be taken to arise out of and in the course of his employment if—
- (a) the accident would have been taken so to have arisen had he been under such an obligation; and
  - (b) at the time of the accident, the vehicle—
    - (i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and
    - (ii) is not being operated in the ordinary course of a public transport service.
- (2) In this section references to a vehicle include a ship, vessel, hovercraft or aircraft.

**100 Accidents happening while meeting emergency**

An accident happening to an employed earner in or about any premises at which he is for the time being employed for the purposes of his employer's trade or business shall be taken to arise out of and in the course of his employment if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

**101 Accident caused by another's misconduct, etc**

An accident happening after 19th December 1961 shall be treated for the purposes of industrial injuries benefit, where it would not apart from this section be so treated, as arising out of an employed earner's employment if—

- (a) the accident arises in the course of the employment; and
- (b) the accident either is caused—
  - (i) by another person's misconduct, skylarking or negligence, or
  - (ii) by steps taken in consequence of any such misconduct, skylarking or negligence, or
  - (iii) by the behaviour or presence of an animal (including a bird, fish or insect),or is caused by or consists in the employed earner being struck by any object or by lightning; and
- (c) the employed earner did not directly or indirectly induce or contribute to the happening of the accident by his conduct outside the employment or by any act not incidental to the employment.